

BUSINESS LAW SECTION

Franchise Law Committee

REPORT OF PENDING FRANCHISE LEGISLATION FRANCHISE LAW COMMITTEE MEETING - SEPTEMBER 25, 1998

by Mary Beth Trice, Esq.

Assembly Bill No. 2770

As previously reported, this bill died on a procedural basis. AB 1830 replaced AB 2770.

Assembly Bill No. 1830

AB 1830 was signed by the Governor and chaptered (Chapter 595) on September 21, 1998.

AB 1830 amends Sections 1812.203 and 1812.206 of the Civil Code, relating to business regulation.

Legislative Counsel's Digest

AB 1830, Davis. Seller assisted marketing plans.

(1) Existing law governing seller assisted marketing plans requires a seller to provide, prior to the execution of the plan contract or the receipt of any consideration, a prospective purchaser of this plan with prescribed information. A seller must give information regarding the criminal background and civil liability of the seller's officers, directors, trustees, and general or limited partners and individuals who have management responsibilities in connection with the seller's business activities. The seller must also give information regarding currently effective injunctions or restrictive orders relating to business activity as a result of an action brought by a public agency or department. Existing law provides that it is a crime for a person to willfully violate these provisions.

This bill requires this disclosure to include information regarding the criminal background and civil liability of the seller's owners. This bill requires disclosure of information regarding currently effective agreements relating to business activity as a result of an investigation brought by a public agency or department. By changing the definition of a crime, this bill imposes a state-mandated local program.

(2) Existing law requires the seller to annually file with the Attorney General a copy of the above-described disclosure statements and requires the first filing to be made at least 30 days prior to placing any advertisement or making any other representation to prospective purchasers.

This bill provides that the seller may not make any advertisement or representation to prospective purchasers until a notice of filing has been issued by the Attorney General.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill provides that no reimbursement is required by the act for a specified reason.

AB 2707

AB 2707 was signed by the Governor and chaptered (Chapter 662) on September 21, 1998

Legislative Counsel's Digest

AB 2707, Perata. Vehicles: New Motor Vehicle Board: franchises.

Summary: This bill enacts a series of revisions to current law governing franchise agreements between motor car dealers (franchisee) and auto manufacturers and distributors (franchisor).

Existing Law:

1. Provides for the establishment of the New Motor Vehicle Board for the purposes of providing a means of assuring that auto manufacturers uphold their franchise agreements. The Board is also charged with the responsibility of settling disputes over franchise agreements between the new motor vehicle franchisee and the vehicle franchisors.
2. Establishes a definition of the terms "franchisor", "franchisee", and "franchise."
3. Prohibits motor vehicle dealers from terminating or refusing to continue any existing franchise unless specified requirements are met, including the requirement that a written notice be sent to franchise motor vehicle dealers concerning their right to file certain protests with the Board.
4. Requires a franchisor to notify in writing the Board and each appropriate franchisee when the franchisor seeks to enter into a franchise establishing a additional or relocating an existing motor vehicle dealership within the relevant market area where there is already a franchisee with the same line-make or vehicle.

AB2707:

1. Deletes language which would have provided car dealers the right to protest the placement of a satellite warranty facility within ten miles of their dealership. Authorize dealers to protest the placement of a satellite service facility within two miles of an existing dealership.
2. Deletes language that would have specified that it is unreasonable for a manufacturer to withhold consent from a sale or transfer of a franchise if certain listed conditions were met. Replaces these provisions with language that would specify that a determination of unreasonableness is a question of fact requiring consideration of all the existing circumstances on a case-by-case basis.
3. Revises the definition of "franchise" to include an agreement that authorizes someone who offers for sale or lease vehicles in addition to someone actually sells and leases vehicle.

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